

## Revised Administrator's Decision Letter

Jennifer Eissing  
Norfolk Public Schools  
800 East City Hall Ave, Suite 800, Rm PH-09  
Norfolk, VA 23510

The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has re-examined your appeal correspondence regarding the Funding Year 2000-2001 Minimum Processing Standards Rejection Letter dated March 15, 2000. After thorough review of the relevant facts it has been determined that the Administrator's Decision Letter (ADL) on appeal dated May 4, 2001, must be revised. This Revised Administrator's Decision Letter replaces the May 4, 2001, ADL in its entirety.

- You stated on appeal that the authorized signature was in blue ink and matches the signature of the other Forms 471 that were data entered. You would like the SLD to reconsider the decision to deny this application for failing minimum processing standards.
- The May 4, 2001, ADL indicated that your appeal brought forth persuasive information that your application should be data entered and considered for funding. After thorough review it has been determined that the SLD is unable to provide discounts for this application for the reasons cited below. Accordingly, the decision on appeal has been changed from Approved for Data Entry to Approved, Funding Denied.



## ATTACHMENT 11

**Universal Service Administrative Company**  
Schools & Libraries Division

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### COMMITMENT ADJUSTMENT LETTER

September 17, 2003

DENNIS FUTTY  
NORFOLK PUBLIC SCHOOL DISTRICT  
800 E. CITY HALL AVENUE  
NORFOLK, VA 23510

Re: COMMITMENT ADJUSTMENT

Funding Year: 2000 -2001

Form 471 Application Number: 200506

Dear Applicant:

Our routine reviews of Schools and Libraries Program funding commitments revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, SLD must now adjust your overall funding commitments. The purpose of this letter is to make the adjustments to your funding commitments required by program rules.

### FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the FRNs from your application for which adjustments are necessary. The SLD is also sending this information to your service provider(s), so preparations can be made to implement this decision. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

Please note that if the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the funds disbursed. The amount is shown as Funds to be Recovered. If funds must be recovered, we will be sending your service provider a letter describing the process for recovering these funds in the near future, and we will send a copy of the letter to you. If the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount.

## TO APPEAL THIS DECISION:

If you wish to appeal the Funding Commitment Decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Commitment Adjustment Letter you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.
3. When explaining your appeal, copy the language or text from the Commitment Adjustment Letter that is at the heart of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125- Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

## A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

- **FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each request in Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.
- **SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.
- **SERVICE PROVIDER:** The legal name of the service provider.
- **CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.
- **SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.
- **SITE IDENTIFIER:** The Entity Number listed in Form 471 for “site specific” FRNs.
- **BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.
- **ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has committed to this FRN. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.
- **FUNDS DISBURSED TO DATE:** This represents the total funds which have been paid up to now to the identified service provider for this FRN.
- **FUNDS TO BE RECOVERED:** This represents the amount of Funds Disbursed to Date that exceed the Adjusted Funding Commitment amount. These funds will have to be recovered. If the Funds Disbursed to Date do not exceed the Adjusted Funding Commitment amount, this entry will be \$0.
- **FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides a description of the reason the adjustment was made.

## **Funding Commitment Report for Application Number: 200506**

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Funding Request Number 439621      SPIN: 143000013  
Service Provider: Cox Virginia Telcom, Inc. dba Cox Business Services  
Contract Number: 9043  
Services Ordered: TELCOMM SERVICES  
Site Identifier:  
Billing Account Number: 757 - 441- 2458  
Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date: \$325,365.75  
Funds to be Recovered: \$325,365.75  
Funding Commitment Adjustment Explanation:

SLD has determined (based upon the submitted Item 25 documentation) that Norfolk Public School District does not have the necessary resources to make effective use of the discounts requested within the applications filed in Funding Year 2000 under the SLD Billed Entity: 197129. Therefore, this funding request for Telecommunications Services that was listed on a Norfolk Public School District Funding Year 2000 Form 471 application under a second SLD Billed Entity Number: 126527 (and was approved prior to the review failure under Billed Entity Number: 197129), is rescinded in full.



**Universal Service Administrative Company**  
Schools & Libraries Division

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**COMMITMENT ADJUSTMENT LETTER**

September 17, 2003

Dennis Fuddy  
NORFOLK PUBLIC SCHOOL DISTRICT  
800 E. CITY HALL AVE  
NORFOLK, VA 23510

Re: COMMITMENT ADJUSTMENT

Funding Year: 2000 -2001

Form 471 Application Number: 164087

Dear Applicant:

Our routine reviews of Schools and Libraries Program funding commitments revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, SLD must now adjust your overall funding commitments. The purpose of this letter is to make the adjustments to your funding commitments required by program rules.

**FUNDING COMMITMENT REPORT**

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1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Commitment Adjustment Letter you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.
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4. Provide an authorized signature on your letter of appeal.

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- **SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.
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- **FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides a description of the reason the adjustment was made.



## **Funding Commitment Report for Application Number: 164087**

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**Funding Request Number 319510                      SPIN: 143004771**

**Service Provider: Verizon - South Inc,**

**Contract Number: T**

**Services Ordered: TELCOMM SERVICES**

**Site Identifier:**

**Billing Account Number:**

**Adjusted Funding Commitment:                      \$0.00**

**Funds Disbursed to Date:                              \$0.00**

**Funds to be Recovered:                                \$0.00**

**Funding Commitment Adjustment Explanation:**

SLD has determined (based upon the submitted Item 25 documentation) that Norfolk Public School District does not have the necessary resources to make effective use of the discounts requested within the applications filed in Funding Year 2000 under the SLD Billed Entity: 197129. Therefore, this funding request for Telecommunications Services that was listed on a Norfolk Public School District Funding Year 2000 Form 471 application under a second SLD Billed Entity Number: 126527 (and was approved prior to the review failure under Billed Entity Number: 197129), is rescinded in full.

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**Funding Request Number 324073                      SPIN: 143001422**

**Service Provider: Verizon-Virginia, Inc.**

**Contract Number: T**

**Services Ordered: TELCOMM SERVICES**

**Site Identifier:**

**Billing Account Number: 757 - 441 - 2458**

**Adjusted Funding Commitment:                      \$0.00**

**Funds Disbursed to Date:                              \$183,448.21**

**Funds to be Recovered:                                \$183,448.21**

**Funding Commitment Adjustment Explanation:**

SLD has determined (based upon the submitted Item 25 documentation) that Norfolk Public School District does not have the necessary resources to make effective use of the discounts requested within the applications filed in Funding Year 2000 under the SLD Billed Entity: 197129. Therefore, this funding request for Telecommunications Services that was listed on a Norfolk Public School District Funding Year 2000 Form 471 application under a second SLD Billed Entity Number: 126527 (and was approved prior to the review failure under Billed Entity Number: 197129), is rescinded in full.



**Universal Service Administrative Company**  
Schools & Libraries Division

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**COMMITMENT ADJUSTMENT LETTER**

September 17, 2003

Dennis Fitty  
NORFOLK PUBLIC SCHOOL DISTRICT  
800 E. CITY HALL AVE  
NORFOLK, VA 23510

Re: COMMITMENT ADJUSTMENT  
Funding Year: 2000 -2001  
Form 471 Application Number: 164154

Dear Applicant:

Our routine reviews of Schools and Libraries Program funding commitments revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, SLD must now adjust your overall funding commitments. The purpose of this letter is to make the adjustments to your funding commitments required by program rules.

**FUNDING COMMITMENT REPORT**

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Please note that if the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the funds disbursed. The amount is shown as Funds to be Recovered. If funds must be recovered, we will be sending your service provider a letter describing the process for recovering these funds in the near future, and we will send a copy of the letter to you. If the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount.

## TO APPEAL THIS DECISION:

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- **FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides a description of the reason the adjustment was made.

## **Funding Commitment Report for Application Number: 164154**

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Funding Request Number 332360 SPIN: 143001422

Service Provider: Verizon-Virginia, Inc.

Contract Number: T

Services Ordered: TELCOMM SERVICES

Site Identifier:

Billing Account Number: 757 - 441 - 2458

Adjusted Funding Commitment: \$0.00

Funds Disbursed to Date: \$0.00

Funds to be Recovered: \$0.00

Funding Commitment Adjustment Explanation:

SLD has determined (based upon the submitted Item 25 documentation) that Norfolk Public School District does not have the necessary resources to make effective use of the discounts requested within the applications filed in Funding Year 2000 under the SLD Billed Entity: 197129. Therefore, this funding request for Telecommunications Services that was listed on a Norfolk Public School District Funding Year 2000 Form 471 application under a second SLD Billed Entity Number: 126527 (and was approved prior to the review failure under Billed Entity Number: 197129), is rescinded in full.

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Funding Request Number 332367 SPIN: 143000013

Service Provider: Cox Virginia Telcom, Inc. dba Cox Business Services

Contract Number: T

Services Ordered: TELCOMM SERVICES

Site Identifier:

Billing Account Number: 757 - 441 - 2458

Adjusted Funding Commitment: \$0.00

Funds Disbursed to Date: \$20,090.00

Funds to be Recovered: \$20,090.00

Funding Commitment Adjustment Explanation:

SLD has determined (based upon the submitted Item 25 documentation) that Norfolk Public School District does not have the necessary resources to make effective use of the discounts requested within the applications filed in Funding Year 2000 under the SLD Billed Entity: 197129. Therefore, this funding request for Telecommunications Services that was listed on a Norfolk Public School District Funding Year 2000 Form 471 application under a second SLD Billed Entity Number: 126527 (and was approved prior to the review failure under Billed Entity Number: 197129), is rescinded in full.



**Universal Service Administrative Company**  
Schools & Libraries Division

**Administrator's Decision on Appeal - Funding Year 2000-2001**

September 17, 2003

Dennis Fitty, Sr.  
Norfolk Public Schools  
800 E. City Hall Ave.  
Norfolk, VA 23510

Re: Billed Entity Number: 126527  
471 Application Number: 165013  
Funding Request Number(s): 329360  
Your Correspondence Dated: December 19, 2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Funding Year 2000 Commitment Adjustment for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 329360  
Decision on Appeal: **Denied in full**  
Explanation:

- In your letter of appeal, you review in detail the resources Norfolk Public Schools has dedicated in order to make effective use of the items included in the request. You state your technology funding came from three sources: the operating budget, Virginia's SOL testing initiative, and a trust fund established through previous years e-rate reimbursements. You state that you have paid your portion of the cost and have included a letter from the provider confirming this fact. You have also noted that you appealed the first denial to SLD on December 7, 2000 and provided documentation supporting Norfolk Public Schools' ability to pay its' non-discounted share. You feel that a positive ruling on the December 7th appeal should nullify the need for this Commitment Adjustment and you urge the SLD to act on this appeal. In summary, you state that you have met the Item 25

requirements and you would like the SLD to reconsider the decision to rescind the commitment for this funding request.

- FCC rules require applicants to certify on each FCC Form 471 submitted that they “have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.” (See Schools and Libraries Universal Service, Services Ordered and Certification Form 471, Block 6, Item 25, OMB 3060-0806, September 1999.) This requires applicants to pay the service provider the full cost of the non-discounted portion owed to their service provider from the funds budgeted within that funding year.
- During the course of PIA Review, applications filed by the Norfolk Public Schools under Billed Entity Number 197129 were selected for a review of the Item 25 Certification. When the SLD conducts an Item 25 review, one of the things the SLD attempts to determine is if, at the time of filing of the Form 471, the applicant had secured access to funds necessary to pay the non-discounted portion of the funding requests for which it had sought discounts.
- On May 8, 2000, the applicant was contacted and was asked to provide documentation relating to the Item 25 Review. In this request, the applicant was asked to provide documentation to verify that it had secured the resources necessary to pay the non-discounted portion of the eligible products and services they had requested on Form 471 application numbers 160951, 161342, 165388, 167137, and 200277. The applicant was also asked to provide the relevant pages of its operating budget to demonstrate that it had secured access to the resources necessary to pay their non-discounted share. On May 23, 2000, Beverly Macek responded to the May 8, 2000 request and included a copy of Norfolk Public School’s approved budget for the 1999-2000 school year and indicated that the budget for the 2000-2001 school year was not yet available.
- Since an approved budget could not be provided for the relevant time period the applicant was contacted on May 30, 2000, and was asked to provide a statement, signed by a school official, indicating the district had set aside funds for Funding Year 2000 (July 1, 2000-June 30, 2001) of e-rate. On June 5, 2000, Dennis Futti responded to the May 30, 2000, request and indicated that, “Norfolk Public Schools will be able to meet the district’s E-Rate responsibility for the approved projects.”
- Since the June 5, 2000, response did not indicate the funds that the applicant had secured to pay their non-discounted portion on Form 471 application numbers 160951, 161342, 165388, 167137, and 200277 the applicant was contacted again on June 6, 2000. The June 6, 2000, correspondence to the applicant stated: “In order for your budget documentation to be valid, I need you to fax a statement on school letterhead, signed by a school official, saying specifically that the district is

able to meet their e-rate commitment of \$1,959,118.60.<sup>1</sup> On June 12, 2000, Dennis Futtly responded indicating, "We have not yet received the new July 1, 2000-June 30, 2001 budget, but our Chief Operating Officer, Fred Schmitt, has assured us there is sufficient money to cover the \$1,959,118.60."

- The June 12, 2000, statement submitted by Dennis Futtly was not considered sufficient because a school official directly responsible for the overall budget of the district did not sign it. Accordingly, the applicant was contacted again on June 23, 2000, and was asked to resubmit the statement with the signature of either the Superintendent or the Chief Financial Officer (Fred Schmitt). On June 28, 2000, Dennis Futtly responded and indicated that Bev Macek had been in contact with the SLD and was handling the response. As of July 31, 2000, the applicant had not provided the information, so the SLD reiterated the request on this date.
- On August 2, 2000, the SDL received a memo from Dr. J. Frank Sellow, Deputy Superintendent of Operations for the Norfolk Public Schools indicating that the district had budgeted for certain requests included on the applications. The memo further indicated that application 200277 was a duplicate of another approved project and should be cancelled and that NPS was rejecting application 161342. In total the memo indicated that Norfolk Public Schools had budgeted \$171,756 to pay the non-discounted portion of the requests, while in actuality Norfolk Public Schools non-discounted portion under Billed Entity Number 197129 was \$352,641.35. Excluding the two requests that the applicant had rejected, Norfolk Public Schools' non-discounted portion was \$312,485.40, which is more than what NPS indicated was budgeted.
- Due to the fact that Norfolk Public Schools had not demonstrated its ability to pay the non-discounted portion, it was contacted again on August 2, 2000, and asked to provide documentation to substantiate the ability to pay the non-discounted amount of \$312,480.40 for the four Form 471 applications they had not rejected (160951, 161342, 165388, and 167137). On August 3, 2000, Dennis Futtly responded indicating that they were funded to cover the expenses listed, but not the two projects that they had rejected (200277 and 161342).<sup>2</sup>
- Since the applicant had been given multiple opportunities to document its ability to pay the non-discounted portion of their request, but failed to do so, it was determined that the applications would be processed with the information that had been provided. Based on the documentation available it was determined that

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<sup>1</sup> Although not noted on SLD's June 6, 2000 correspondence the \$1,959,118.60 amount represents the pre-discount amount of Norfolk Public School's funding requests on application numbers 160951, 161342, 165388, 167137, and 200277.

<sup>2</sup> It should be noted that the applicant is required to demonstrate their ability to pay the non-discounted share for all funding requests they filed and cannot choose to demonstrate their ability to pay the non-discounted portion for only some of their funding requests. However, if in error the applicant has filed duplicate funding requests, they would only be required to demonstrate their ability to pay the non-discounted portion on the original request, but not the duplicate request.



Norfolk Public Schools had not demonstrated that it had secured access to the funds necessary to pay the non-discounted portion for its funding requests. Consequently, Norfolk Public Schools failed the Item 25 Review and was only eligible to receive discounts on unbundled basic telecommunications service for which it had demonstrated its ability to pay the non-discounted share.

- After the Item 25 Review was complete for Billed Entity Number 197129, it was determined that the Norfolk Public Schools actually filed Form 471 applications under two separate Billed Entity Numbers (197129 and 126527). Since both Billed Entity Numbers are for the Norfolk Public Schools, the failure of the Item 25 Review for Billed Entity Number 197129 by definition means that the Billed Entity Number 126527 also failed the Item 25 Review. Consequently, Billed Entity Number 126527 is also only eligible to receive discounts on unbundled basic telecommunications service.
- The documentation provided on appeal will not be considered because during the course of initial review for Billed Entity 197129 you were given the opportunity to provide such documentation and failed to do so. Consequently, the appeal of the Commitment Adjustment Letter is denied in full and the SLD will not restore the funding for this request.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company



**Administrator's Decision on Appeal - Funding Year 2000-2001**

September 17, 2003

Dennis Fuddy, Sr.  
Norfolk Public Schools  
800 E. City Hall Ave.  
Norfolk, VA 23510

Re:      Billed Entity Number:            126527  
         471 Application Number:          164284  
         Funding Request Number(s):      387892  
         Your Correspondence Dated:      December 19, 2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's FundingYear 2000 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number:            387892  
Decision on Appeal:                **Denied in full**  
Explanation:

- In your letter of appeal, you review in detail the resources Norfolk Public Schools has dedicated in order to make effective use of the items included in the request. You state your technology funding came from three sources: the operating budget, Virginia's SOL testing initiative, and a trust fund established through previous years e-rate reimbursements. You state that you have paid your portion of the cost and have included a letter from the provider confirming this fact. You have also noted that you appealed the first denial to SLD on December 7, 2000 and provided documentation supporting Norfolk Public Schools' ability to pay its' non-discounted share. You feel that a positive ruling on the December 7th appeal should nullify the need for this Commitment Adjustment and you urge the SLD to act on this appeal. In summary, you state that you have met the Item 25 requirements and you would like the SLD to reconsider the decision to rescind the commitment for this funding request.

requirements and you would like the SLD to reconsider the decision to rescind the commitment for this funding request.

- FCC rules require applicants to certify on each FCC Form 471 submitted that they “have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.” (See Schools and Libraries Universal Service, Services Ordered and Certification Form 471, Block 6, Item 25, OMB 3060-0806, September 1999.) This requires applicants to pay the service provider the full cost of the non-discounted portion owed to their service provider from the funds budgeted within that funding year.
- During the course of PIA Review, applications filed by the Norfolk Public Schools under Billed Entity Number 197129 were selected for a review of the Item 25 Certification. When the SLD conducts an Item 25 review, one of the things the SLD attempts to determine is if, at the time of filing of the Form 471, the applicant had secured access to funds necessary to pay the non-discounted portion of the funding requests for which it had sought discounts.
- On May 8, 2000, the applicant was contacted and was asked to provide documentation relating to the Item 25 Review. In this request, the applicant was asked to provide documentation to verify that it had secured the resources necessary to pay the non-discounted portion of the eligible products and services they had requested on Form 471 application numbers 160951, 161342, 165388, 167137, and 200277. The applicant was also asked to provide the relevant pages of its operating budget to demonstrate that it had secured access to the resources necessary to pay their non-discounted share. On May 23, 2000, Beverly Macek responded to the May 8, 2000 request and included a copy of Norfolk Public School’s approved budget for the 1999-2000 school year and indicated that the budget for the 2000-2001 school year was not yet available.
- Since an approved budget could not be provided for the relevant time period the applicant was contacted on May 30, 2000, and was asked to provide a statement, signed by a school official, indicating the district had set aside funds for Funding Year 2000 (July 1, 2000-June 30, 2001) of e-rate. On June 5, 2000, Dennis Futtu responded to the May 30, 2000, request and indicated that, “Norfolk Public Schools will be able to meet the district’s E-Rate responsibility for the approved projects.”
- Since the June 5, 2000, response did not indicate the funds that the applicant had secured to pay their non-discounted portion on Form 471 application numbers 160951, 161342, 165388, 167137, and 200277 the applicant was contacted again on June 6, 2000. The June 6, 2000, correspondence to the applicant stated: “In order for your budget documentation to be valid, I need you to fax a statement on school letterhead, signed by a school official, saying specifically that the district is

able to meet their e-rate commitment of \$1,959,118.60.<sup>1</sup>” On June 12, 2000, Dennis Fuddy responded indicating, “We have not yet received the new July 1, 2000-June 30, 2001 budget, but our Chief Operating Officer, Fred Schmitt, has assured us there is sufficient money to cover the \$1,959,118.60.”

- The June 12, 2000, statement submitted by Dennis Fuddy was not considered sufficient because a school official directly responsible for the overall budget of the district did not sign it. Accordingly, the applicant was contacted again on June 23, 2000, and was asked to resubmit the statement with the signature of either the Superintendent or the Chief Financial Officer (Fred Schmitt). On June 28, 2000, Dennis Fuddy responded and indicated that Bev Macek had been in contact with the SLD and was handling the response. As of July 31, 2000, the applicant had not provided the information, so the SLD reiterated the request on this date.
- On August 2, 2000, the SLD received a memo from Dr. J. Frank Sellew, Deputy Superintendent of Operations for the Norfolk Public Schools indicating that the district had budgeted for certain requests included on the applications. The memo further indicated that application 200277 was a duplicate of another approved project and should be cancelled and that NPS was rejecting application 161342. In total the memo indicated that Norfolk Public Schools had budgeted \$171,756 to pay the non-discounted portion of the requests, while in actuality Norfolk Public Schools non-discounted portion under Billed Entity Number 197129 was \$352,641.35. Excluding the two requests that the applicant had rejected, Norfolk Public Schools’ non-discounted portion was \$312,485.40, which is more than what NPS indicated was budgeted.
- Due to the fact that Norfolk Public Schools had not demonstrated its ability to pay the non-discounted portion, it was contacted again on August 2, 2000, and asked to provide documentation to substantiate the ability to pay the non-discounted amount of \$312,480.40 for the four Form 471 applications they had not rejected (160951, 161342, 165388, and 167137). On August 3, 2000, Dennis Fuddy responded indicating that they were funded to cover the expenses listed, but not the two projects that they had rejected (200277 and 161342).<sup>2</sup>
- Since the applicant had been given multiple opportunities to document its ability to pay the non-discounted portion of their request, but failed to do so, it was determined that the applications would be processed with the information that had been provided. Based on the documentation available it was determined that

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<sup>1</sup> Although not noted on SLD’s June 6, 2000 correspondence the \$1,959,118.60 amount represents the pre-discount amount of Norfolk Public School’s funding requests on application numbers 160951, 161342, 165388, 167137, and 200277.

<sup>2</sup> It should be noted that the applicant is required to demonstrate their ability to pay the non-discounted share for all funding requests they filed and cannot choose to demonstrate their ability to pay the non-discounted portion for only some of their funding requests. However, if in error the applicant has filed duplicate funding requests, they would only be required to demonstrate their ability to pay the non-discounted portion on the original request, but not the duplicate request.

Norfolk Public Schools had not demonstrated that it had secured access to the funds necessary to pay the non-discounted portion for its funding requests. Consequently, Norfolk Public Schools failed the Item 25 Review and was only eligible to receive discounts on unbundled basic telecommunications service for which it had demonstrated its ability to pay the non-discounted share.

- After the Item 25 Review was complete for Billed Entity Number 197129, it was determined that the Norfolk Public Schools actually filed Form 471 applications under two separate Billed Entity Numbers (197129 and 126527). Since both Billed Entity Numbers are for the Norfolk Public Schools, the failure of the Item 25 Review for Billed Entity Number 197129 by definition means that the Billed Entity Number 126527 also failed the Item 25 Review. Consequently, Billed Entity Number 126527 is also only eligible to receive discounts on unbundled basic telecommunications service.
- The documentation provided on appeal will not be considered because during the course of initial review for Billed Entity 197129 you were given the opportunity to provide such documentation and failed to do so. Consequently, the appeal of the Commitment Adjustment Letter is denied in full and the SLD will not restore the funding for this request.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

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